

SENATE MOTION

MR. PRESIDENT:

I move that Senate Bill 417 be amended to read as follows:

- 1 Page 6, between lines 23 and 24, begin a new paragraph and insert:
- 2 "SECTION 3. IC 6-3.1-26 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 JANUARY 1, 2004]:
- 5 **Chapter 26. Gasohol and Biodiesel Production Tax Credit**
- 6 **Sec. 1. As used in this chapter, "biodiesel" means a renewable,**
- 7 **biodegradable, mono alkyl ester combustible liquid fuel derived**
- 8 **from agricultural plant oils or animal fats that meets American**
- 9 **Society for Testing and Materials specification D6751-02 for**
- 10 **biodiesel fuel (B100) blend stock distillate fuels.**
- 11 **Sec. 2. As used in this chapter, "ethanol" means agriculturally**
- 12 **derived ethyl alcohol.**
- 13 **Sec. 3. As used in this chapter, "gasohol" means gasoline that**
- 14 **contains:**
- 15 **(1) at least ten percent (10%) ethanol; or**
- 16 **(2) ethyl tertiary butyl ether (ETBE) additives derived from**
- 17 **ethanol.**
- 18 **Sec. 4. As used in this chapter, "pass through entity" means:**
- 19 **(1) a corporation that is exempt from the adjusted gross**
- 20 **income tax under IC 6-3-2-2.8(2);**
- 21 **(2) a partnership;**
- 22 **(3) a limited liability company; or**
- 23 **(4) a limited liability partnership.**
- 24 **Sec. 5. As used in this chapter, "state tax liability" means a**
- 25 **taxpayer's total tax liability that is incurred under:**
- 26 **(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**
- 27 **(2) IC 6-5.5 (the financial institutions tax); and**
- 28 **(3) IC 27-1-18-2 (the insurance premiums tax);**
- 29 **as computed after the application of the credits that under**
- 30 **IC 6-3.1-1-2 are to be applied before the credit provided by this**
- 31 **chapter.**

1 **Sec. 6.** As used in this chapter, "taxpayer" means an individual
2 or entity that has any state tax liability.

3 **Sec. 7.** A taxpayer who produces gasohol or biodiesel at a
4 facility located in Indiana is entitled to a credit against the
5 taxpayer's state tax liability equal to the product of:

6 (1) eighteen cents (\$0.18); multiplied by

7 (2) the number of gallons of gasohol or biodiesel produced at
8 the Indiana facility.

9 **Sec. 8.** If a pass through entity is entitled to a credit under
10 section 7 of this chapter but does not have state tax liability against
11 which the tax credit may be applied, a shareholder, partner, or
12 member of the pass through entity is entitled to a tax credit equal
13 to:

14 (1) the tax credit determined for the pass through entity for
15 the taxable year; multiplied by

16 (2) the percentage of the pass through entity's distributive
17 income to which the shareholder, partner, or member is
18 entitled.

19 **Sec. 9. (a)** If the amount of the credit determined under section
20 7 of this chapter for a taxpayer in a taxable year exceeds the
21 taxpayer's state tax liability for that taxable year, the taxpayer
22 may carry over the excess to the following taxable years. The
23 amount of the credit carryover from a taxable year shall be
24 reduced to the extent that the carryover is used by the taxpayer to
25 obtain a credit under this chapter for any subsequent taxable year.

26 **(b)** A taxpayer is not entitled to a carryback or refund of any
27 unused credit.

28 **Sec. 10.** To receive the credit provided by this chapter, a
29 taxpayer must claim the credit on the taxpayer's state tax return
30 or returns in the manner prescribed by the department. The
31 taxpayer shall submit to the department proof of the number of
32 gallons of gasohol or biodiesel that the taxpayer produced in
33 Indiana and all information that the department determines is
34 necessary for the calculation of the credit provided by this chapter.

35 SECTION 4. IC 6-3.1-27 IS ADDED TO THE INDIANA CODE
36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
37 JANUARY 1, 2004]:

38 **Chapter 27. Gasohol and Biodiesel Retailer Tax Credit**

39 **Sec. 1.** As used in this chapter, "biodiesel" means a renewable,
40 biodegradable, mono alkyl ester combustible liquid fuel derived
41 from agricultural plant oils or animal fats that meets American
42 Society for Testing and Materials specification D6751-02 for
43 biodiesel fuel (B100) blend stock distillate fuels.

44 **Sec. 2.** As used in this chapter, "dealer" has the meaning set
45 forth in IC 6-6-1.1-103.

46 **Sec. 3.** As used in this chapter, "ethanol" means agriculturally
47 derived ethyl alcohol.

48 **Sec. 4.** As used in this chapter, "gasohol" means gasoline that

1 contains:

- 2 (1) at least ten percent (10%) ethanol; or
 3 (2) ethyl tertiary butyl ether (ETBE) additives derived from
 4 ethanol.

5 Sec. 5. As used in this chapter, "gasoline" has the meaning set
 6 forth in IC 6-6-1.1-103.

7 Sec. 6. As used in this chapter, "motor fuel" has the meaning set
 8 forth in IC 6-6-4.1-1.

9 Sec. 7. As used in this chapter, "pass through entity" means:

- 10 (1) a corporation that is exempt from the adjusted gross
 11 income tax under IC 6-3-2-2.8(2);
 12 (2) a partnership;
 13 (3) a limited liability company; or
 14 (4) a limited liability partnership.

15 Sec. 8. As used in this chapter, "qualified fuel" means either:

- 16 (1) biodiesel; or
 17 (2) gasohol.

18 Sec. 9. As used in this chapter, "service station" means a retail
 19 outlet where a dealer sells a motor fuel through a metered pump.

20 Sec. 10. As used in this chapter, "state tax liability" means a
 21 taxpayer's total tax liability that is incurred under:

- 22 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
 23 (2) IC 6-5.5 (the financial institutions tax); and
 24 (3) IC 27-1-18-2 (the insurance premiums tax);

25 as computed after the application of the credits that under
 26 IC 6-3.1-1-2 are to be applied before the credit provided by this
 27 chapter.

28 Sec. 11. As used in this chapter, "taxpayer" means an individual
 29 or entity that has any state tax liability.

30 Sec. 12. (a) A taxpayer who:

- 31 (1) is a dealer; and
 32 (2) operates a service station in Indiana at which more than
 33 sixty percent (60%) of the total gallons of motor fuel sold and
 34 dispensed through a metered pump in a taxable year is a
 35 qualified fuel;

36 is entitled to a credit against the taxpayer's state tax liability.

37 (b) The amount of the credit allowed under this section is the
 38 product of:

- 39 (1) two and five-tenths cents (\$0.025); multiplied by
 40 (2) the total number of gallons of qualified fuel sold and
 41 dispensed through all of the metered pumps located at a
 42 service station described in subsection (a)(2).

43 (c) The credit allowed under this subsection must be computed
 44 separately for each service station operated by the taxpayer that
 45 meets the requirements of subsection (a)(2).

46 Sec. 13. If a pass through entity is entitled to a credit under
 47 section 12 of this chapter but does not have state tax liability
 48 against which the tax credit may be applied, a shareholder,

1 partner, or member of the pass through entity is entitled to a tax
2 credit equal to:

3 (1) the tax credit determined for the pass through entity for
4 the taxable year; multiplied by

5 (2) the percentage of the pass through entity's distributive
6 income to which the shareholder, partner, or member is
7 entitled.

8 Sec. 14. (a) If the amount of the credit determined under section
9 12 of this chapter for a taxpayer in a taxable year exceeds the
10 taxpayer's state tax liability for that taxable year, the taxpayer
11 may carry over the excess to the following taxable years. The
12 amount of the credit carryover from a taxable year shall be
13 reduced to the extent that the carryover is used by the taxpayer to
14 obtain a credit under this chapter for any subsequent taxable year.

15 (b) A taxpayer is not entitled to a carryback or refund of any
16 unused credit.

17 Sec. 15. To receive the credit provided by this chapter, a
18 taxpayer must claim the credit on the taxpayer's state tax return
19 or returns in the manner prescribed by the department. The
20 taxpayer shall submit to the department proof of the number of
21 gallons of qualified fuel that the taxpayer sold at each service
22 station for which the taxpayer claims a credit under this chapter
23 and all information that the department determines is necessary
24 for the calculation of the credit provided by this chapter."

25 Page 6, line 27, after "IC 6-3.1-25," insert "IC 6-3.1-26, and
26 IC 6-3.1-27, all".

27 Page 6, line 28, delete "applies" and insert "apply".

(Reference is to SB 417 as printed February 28, 2003.)

Senator WATERMAN